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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/465,298	12/17/1999	DARRYL FRANKLIN CLARK	14543	8717

23556 7590 08/20/2003

KIMBERLY-CLARK WORLDWIDE, INC.
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EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 08/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/465,298

Applicant(s)

CLARK ET AL.

Examiner

Jenna-Leigh Befumo

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 10-17.Claim(s) rejected: 1-3 and 7-9.Claim(s) withdrawn from consideration: 18-23.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: The Applicant argues that the examples in Lickfield et al. do not teach the same air permeability and hydrohead values as those produce in the Applicant's own examples (Response, page 7 - 8). First, the Applicant argues that the fabrics taught by Lickfield et al. use fabrics with different basis weights to produce similar air permeability. However, the Applicant did not claim the basis weight of the fabric and thus, this limitation is not required in the prior art. Second, the Applicant argues that Lickfield et al. alone would not have the claimed properties. However, the rejection is based on Lickfield et al. in view of Krueger et al. and not Lickfield et al. alone. Therefore, the Examiner never rejected claims 1 - 3 and 7 - 9 on Lickfield et al. alone. Hence, the Applicant must prove that the combination of Lickfield et al. and Krueger et al. would not have the claimed properties. Therefore, the Applicant's arguments based on the properties of the fabric produced by Lickfield et al. alone are not relevant to the rejection to claims 1 - 3 and 7 - 9 as set forth in the previous Office Action. Krueger et al. teaches that bicomponent meltblown fibers would produce a loftier layer which would directly effect the air permeability and hydrohead of the product produced by the combination of Lickfield et al. and Krueger et al. Therefore, the rejection to claims 1 - 3 and 7 - 9 based on the combination of Lickfield et al. and Krueger et al. is maintained since the combination of Lickfield et al. and Krueger et al. would have the same structure as the product claimed by the Applicant and would therefore have the same properties as a result of having the same structural limitations .



CHERYL A. JUSKA
PRIMARY EXAMINER